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BEFORE THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
STATE OF CALIFORNIA

In the Matter of:

DANIEL GABRIELSON, OWNER AND
OPERATOR

RE: /d.b.a., BELMONT TIRES

FACILITY NO. 10-TI-1166

RESPONDENT.

) OAH No. N2004080631

) ADMINISTRATIVE DECISION

) AGENCY NO. 2003-010543-ADH

ADMINISTRATIVE DECISION PURSUANT TO STIPULATION

Pursuant to the "Stipulation for Issuance of Administrative Decision"
dated November 2, 2004 entered into by and between Complainant CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD (the "CIWMB"), and Respondent,
DANEIL GABRIELSON, Owner and Operator ("Respondent"), and good cause
appearing therefore, the following Stipulated Factual Findings and Conclusions of Law
are made, and the following Stipulated Order is issued:

STIPULATED FACTUAL FINDINGS

1. The CIWMB has authority to inspect, permit, regulate and conduct enforcement actions against Waste Tire Facilities within the State of California under Public Resources Code section 42800 et seq. and attendant regulations contained in Title 14 of the California Code of Regulations (CCR).

2. The CIWMB has authority to regulate, inspect, and conduct enforcement actions against Waste Tire Haulers within the State of California under Public Resources Code section 42950 et seq. and attendant regulations contained in Title 14 of the California Code of Regulations (CCR).

3. DANIEL GABRIELSON, as Owner and Operator, is responsible for waste tires removed from Belmont Tires located at 3907 East Belmont Avenue, Fresno, CA 93702.

4. On April 11, 2003, Officer Tillery, City of Fresno Police Department, Badge #1159, was dispatched to 3946 E. Nevada to investigate persons dumping tires in an alley, and a witness had followed the dumpers back to Belmont Tire. Approximately sixty (60) waste tires had been picked up at Belmont Tire by two unregistered waste tire haulers who then dumped them in a public alley. The owner and operator of Belmont Tire violated 30 PRC section 42953 – Contracting or arranging with another person to transport waste or used tires not holding a valid waste and used tire hauler registration.

5. On April 29, 2003, Lew Elliott, CIWMB inspector, conducted an inspection of Belmont Tires, and found that no manifests had been completed for the waste or used tires in question as required by PRC section 42961.5

6. DANIEL GABRIELSON has knowledge of the waste tire laws. On January 13, 2000, DANIEL GABRIELSON, operator of Belmont Tires, first became registered as a waste tire hauler with the CIWMB. MR. GABRIELSON re-registered on February 2, 2001, February 26, 2002 and December 3, 2002.

7. An Administrative Complaint was issued by the CIWMB on June 8, 2004 to DANIEL GABRIELSON, Owner and Operator of Belmont Tires seeking One Thousand, Five Hundred Dollars (\$1,500.00) in penalties.

1 8. On October 19, 2004, a Settlement Hearing was held at which time DANIEL
2 GABRIELSON agreed to the terms set forth in the Stipulation for Issuance of
3 Administrative Decision.

4 **STIPULATED CONCLUSIONS OF LAW**

5 9. DANIEL GABRIELSON, Owner and Operator of Belmont Tires is in violation
6 of PRC Section 42953, which makes it unlawful to contract or arrange with another
7 person to transport waste or used tires not holding a valid waste and used tire hauler
8 registration.

9 10. DANIEL GABRIELSON, Owner and Operator of Belmont Tires
10 acknowledges that he understands and agrees that he will not be provided with any
11 hearing or other opportunity to contest the CIWMB's determination that he is in default
12 of the Stipulation.

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14 **ADMINISTRATIVE DECISION BASED UPON STIPULATED FACTUAL FINDINGS**
15 **AND STIPULATED CONCLUSIONS OF LAW**

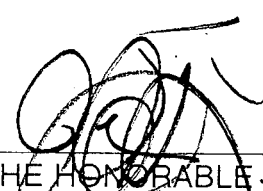
16 Pursuant to the Stipulated Factual Findings and Stipulated Conclusions of Law,
17 and good cause appearing therefore, the following Administrative Decision is hereby
18 issued in this proceeding:

19 (A) Respondent DANEIL GABRIELSON, Owner and Operator shall pay a
20 monetary penalty of One Thousand Dollars, (\$1,000.00) to Complainant, the California
21 Integrated Waste Management Board. The penalty of Five Hundred (\$500.00) is stayed
22 for a period of one (1) year from the date of the Decision. If the CIWMB determines at
23 hearing that RESPONDENT is liable for any new violation of statute or regulation
24 governing the storage, disposal, or hauling of waste tires during this one year period, or
25 if the terms and conditions of the Stipulation for Issuance of Administrative Decision are
26 violated, then the stay will be lifted, and the Five Hundred Dollars (\$500.00) will become
27 immediately due and owing to the CIWMB.

28 (B) DANIEL GABRIELSON agrees to the COMPLAINANT recording a lien on

1 any real property owned by RESPONDENT for the amount of One Thousand Dollars
2 (\$1,000.00). If the CIWMB determines that the additional Five Hundred Dollars
3 (\$500.00) is due and owing because of a violation of statute or regulation, then the lien
4 will be for One Thousand, Five Hundred Dollars (\$1,500.00) less the amount paid to
5 date.
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9 Dated: 12-27-04

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11 THE HONORABLE JAIME R. ROMAN
12 Administrative Law Judge
13 Office of Administrative Hearings
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